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10/591,901	09/07/2006	Kazuhiro Matsuzaki	0054-0325PUS1	8011

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EXAMINER
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CORBO, NICHOLAS T

ART UNIT	PAPER NUMBER
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4126

NOTIFICATION DATE	DELIVERY MODE
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ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/591,901	<b>Applicant(s)</b> MATSUZAKI ET AL.	
	<b>Examiner</b> NICHOLAS CORBO	<b>Art Unit</b> 4126	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/07/2006</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Referring to claim 1, lines 15 -20 of the claim, it is unclear if the program content managing/providing system is storing the non-stored program content or a stored program content. It is also unclear whether either of the content is being stored to the system or to the user terminal. It is also unclear if the non-stored program content or a stored program content is being distributed. It is also unclear as to whether the provisions of "in a case of broadcasting a non-stored program content" and "in response to a distribution request of a desired program content sent from the user terminal" apply to the act of storing, the act of distributing, or to both actions.

Further clarification is required.

For the purpose of expediting the prosecution of the instant application, the Examiner interprets the unclear language as follows. In the case of broadcasting a non-stored program content, the program content managing/providing system stores the non-stored program content in the system. In response to a distribution request of a desired program content sent from the user terminal, a stored program content

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corresponding to program information included in the distribution request is distributed to the user terminal.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-2, 5-7, and 10-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Ellis et al US 20040117831.

Referring to claim 1, Ellis et al discloses a broadcast program content retrieving and distributing system (see including, but not limited to Fig. 1a, 10), comprising:

a program content (interpreted as any information about or constituting programs) managing/providing system for storing and managing program contents to be broadcasted and for providing a program broadcast service and a program content distribution service (see Paragraphs 0088 and 0092 for disclosing the television distribution facility providing a program broadcast service including the program content);

a program content analyzing/retrieving system for analyzing a broadcasted program content (interpreted as program content previously broadcasted to the

television distribution facilities as described in Paragraph 0087) to extract and store program information serving as a keyword for retrieval and for providing a program information retrieval service (see Paragraph 101 for disclosing the ability to extract/process and store data of the program guide); and

a user terminal (see Fig. 1A, 20), wherein:

the program content managing/providing system, the program content analyzing/retrieving system, and the user terminal are connected to each other through a network (see Paragraph 0092 for disclosing a communications path/network connecting the user terminal/television equipment with the rest of the network);

the program content managing/providing system stores, in a case of broadcasting a non-stored program content, the non-stored program content (see Paragraph 0149 incorporating application 09/330792 (US 2005/0204388) by reference. See US 2005/0204388, Paragraph 0111 and Fig. 11, record screen 140 for disclosing the system being capable to store/record a first-run (non-stored, broadcasted) program (setting available in Fig. 11, 147)) and distributes, in response to a distribution request of a desired program content sent from the user terminal, a stored program content corresponding to program information included in the distribution request, to the user terminal (see Paragraph 0128 and Fig. 7 for disclosing program content about a selected program from the program guide database, in response to the program selection/distribution request sent from the user terminal, distributed to the user terminal) ; and

the program content analyzing/retrieving system receives and analyzes a broadcasted program content, extracts the program information to be stored on a program content basis (see Paragraph 101 for disclosing the ability to receive and analyze/process program guide data and Paragraph 0089 for disclosing the extraction of the content to be stored on a basis/type such as title or description), and provides stored program information on a program content which meets a search condition for the user terminal in response to a search request of program information on a desired program content sent from the user terminal (see Paragraph 0135, 0136, and Fig. 12 for disclosing requested program information relating to program content being provided as a result of user search condition(s) from the user terminal).

Referring to claim 2, Ellis et al discloses the program content managing/providing system comprises:

- a program content database for storing program contents (see Fig. 1a, 22);
- a broadcast system for broadcasting a program content stored in the program content database (see Paragraphs 0088 and 0092 for disclosing the television distribution facility providing a program broadcast service including the program content) and for storing, in a case of broadcasting a program content which does not exist in the program content database, the non-existing program content in the program content database (See US 2005/0204388, Paragraph 0111 and Fig. 11, record screen 140 for

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disclosing the system being capable to store/record a first-run (non-stored, broadcasted) program (setting available in Fig. 11, 147));

a transcoder for performing signal conversion of a program content which is read from the program content database based on the distribution request (see US 2005/0204388, Paragraph 0043 for disclosing, in response to a distribution request/tuning to a desired channel, the television signal carrying the video and data is provided by a transcoder in a mode suitable for the equipment that initiated the distribution request); and

a distribution server for reading, from the program content database, a program content corresponding to program information included in the distribution request, in response to the distribution request, and for distributing the program content to the user terminal (see Paragraph 0178 incorporating US Patent No. 5,822,123 by reference. See US 5,822,123, Col. 15, Lines 53-59 for disclosing a user selecting program information to initiate a distribution request and a data provider (or distribution server) reads/distributes the program content corresponding to that program information from the distribution request when the channel is tuned to as a result of the distribution request).

Referring to claim 5, Ellis et al discloses the program content managing/providing system comprises:

a broadcast system for broadcasting a stored program content (see Paragraphs 0088 and 0092 for disclosing the television distribution facility providing a program

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broadcast service including the program content), and for storing, in a case of broadcasting a non-stored program content, the non-stored program content (see US 2005/0204388, Paragraph 0111 and Fig. 11, record screen 140 for disclosing the system being capable to store/record a first-run (non-stored, broadcasted) program (setting available in Fig. 11, 147)); and

a program content distribution system for providing, in response to a distribution request of a desired program content from the user terminal, a stored program content corresponding to program information included in the distribution request, for the user terminal (see US 5,822,123, Col. 20, Lines 26-31 and Figs. 22 and 23 for disclosing a stored program content (PPV movie) being provided to the user terminal in response to a distribution request of the desired program content (PPV movie) from the user terminal).

Referring to claim 6, Ellis et al discloses the program content distribution system comprises:

a program content database (see Fig. 1a, 22) for storing program contents;

a transcoder for performing signal conversion of a program content which is read from the program content database based on the distribution request (see US 2005/0204388, Paragraph 0043 for disclosing, in response to a distribution request/tuning to a desired channel, the television signal carrying the video and data is provided by a transcoder in a mode suitable for the equipment that initiated the distribution request); and



a distribution server for reading, from the program content database, a program content corresponding to program information included in the distribution request, in response to the distribution request, and for distributing the program content to the user terminal (see US 5,822,123, Col. 15, Lines 53-59 for disclosing a user selecting program information to initiate a distribution request and a data provider (or distribution server) reads/distributes the program content corresponding to that program information from the distribution request when the channel is tuned to as a result of the distribution request).

Referring to claim 7, Ellis et al discloses the program content analyzing/retrieving system comprises:

a program content analyzing system for receiving and analyzing a broadcasted program content (see Paragraph 0099 for the transmission of program content to the set-top box. See US 5,822,123, Fig. 1, 16 for disclosing a microcontroller/processor for analyzing received program content), and for extracting/generating the program information to be transmitted (see Paragraph 101 and Fig. 7 for disclosing a set-top box having integrated into its operating system a program guide application that extracts/generates program information on the program content based on the result of the processor's analysis/processing); and

a program information retrieval system for storing the obtained program information on a program content basis (see Paragraph 0098 for disclosing the storage of program listings data received from the television distribution facility and Paragraph

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0089 for disclosing storage of the content based on a basis/type such as the program's title or description), and for providing stored program information on a program content which meets a search condition for the user terminal in response to a search request of program information on a desired program content from the user terminal (see Paragraph 101 for disclosing the client-server relationship between the user terminal and the television distribution facility server and see Paragraph 0135, 0136, and Fig. 12 for disclosing requested program information relating to program content being provided as a result of user search condition(s) from the user terminal).

Referring to claim 10, Ellis et al discloses the program information retrieval system comprises:

- a program information database (see Fig. 1a, 22) for storing program information on a program content basis (see Paragraph 0089 for disclosing the extraction of the content to be stored on a basis/type such as title or description);

- an analyzed-data acquisition part for acquiring program information from the network (see Paragraph 0089 for disclosing the television distribution facility receiving program guide information over the network from the main facility) and for storing the program information in the program information database (see Paragraph 0097 for disclosing the storage of program guide information in the television distribution facility server/database); and

- a retrieval server (Fig. 1a, 22) for reading, from the program information database, program information on a program content which meets a search condition, in

response to a search request of program information on a desired program content from the user terminal, and for providing the program information for the user terminal (see Paragraph 101 for disclosing the client-server relationship between the user terminal and the television distribution facility server and see Paragraph 0135, 0136, and Fig. 12 for disclosing requested program information relating to program content being provided as a result of user search condition(s) from the user terminal).

Referring to claim 11, Ellis et al discloses when a program content is constituted by a plurality of program segments (see Paragraph 0149 incorporating application 09/332244 (US 2003/0149988) by reference. See US 2003/0149988, Paragraph 179 indicating the custom program being segmented with whole programs making up each segment), the program content managing/providing system stores and manages the program content by assigning identification information to each of the program segments (see US 2003/0149988, Fig. 25a and Paragraph 0178 for disclosing the recording/storing of the program content and Paragraph 0179 for disclosing the processing/managing of the program content by assigning identification information (such as the title) to each of the program segments), and distributes, in response to a program-segment-based distribution request of a desired program content sent from the user terminal, a program segment of a stored program content corresponding to program-segment-based identification information included in the distribution request, to the user terminal (see Paragraph 0128 and Fig. 7 for disclosing program content about a selected program (or program segment) from the program guide database, in

response to the program selection/distribution request sent from the user terminal, distributed to the user terminal); and

the program content analyzing/retrieving system receives and analyzes a broadcasted program content, extracts the" program-segment-based identification information to be stored on a program content basis (see Paragraph 101 for disclosing the ability to receive and analyze/process program guide data and Paragraph 0089 for disclosing the extraction of the content segments to be stored on a basis/type such as title or description), and provides for the user terminal, stored program-segment-based identification information on a program content which meets a search condition, in response to a search request of program-segment-based program information on a desired program content, sent from the user terminal (see Paragraph 0135, 0136, and Fig. 12 for disclosing requested program information relating to program content segments being provided as a result of user search condition(s) from the user terminal).

Referring to claim 12, Ellis et al discloses when a program content is constituted by a plurality of program components (see US 2003/0149988, Paragraph 179 indicating the custom program being divided into components with whole programs making up each component), the program content managing/providing system stores and manages the program content by assigning identification information to each of the program components (see US 2003/0149988, Fig. 25a and Paragraph 0178 for disclosing the recording/storing of the program content and Paragraph 0179 for disclosing the processing/managing of the program content by assigning identification

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information (such as the title) to each of the program components), and distributes, in response to a program-component-based distribution request of a desired program content sent from the user terminal, a program component of a stored program content corresponding to program-component-based identification information included in the distribution request, to the user terminal (see Paragraph 0128 and Fig. 7 for disclosing program content about a selected program (or program component) from the program guide database, in response to the program selection/distribution request sent from the user terminal, distributed to the user terminal); and

the program content analyzing/retrieving system receives and analyzes a broadcasted program content, extracts the" program-component-based identification information to be stored on a program content basis (see Paragraph 101 for disclosing the ability to receive and analyze/process program guide data and Paragraph 0089 for disclosing the extraction of the content components to be stored on a basis/type such as title or description), and provides for the user terminal, stored program-component-based identification information on a program content which meets a search condition, in response to a search request of program-component-based program information on a desired program content, sent from the user terminal (see Paragraph 0135, 0136, and Fig. 12 for disclosing requested program information relating to program content components being provided as a result of user search condition(s) from the user terminal).

Referring to claim 13, Ellis et al discloses a plurality of the program content managing/providing systems and a plurality of the program content analyzing/retrieving systems are connected to each other through the network (see Paragraph 0088 for disclosing multiple television distribution facilities and Fig. 1A for disclosing multiple user terminals all connected over a network);

the program content analyzing/retrieving system provides for the user terminal, in response to a search request of program information on a desired program content sent from the user terminal, a service provider identification together with stored program information on a program content which meets a search condition (see Paragraph 0135, 0136 and Fig. 12 for disclosing requested program information relating to program content being provided, as well as service provider information (see Fig. 12, 102 and Paragraph 0118 for disclosing brad identifier of the guide/service provider) as a result of user search condition(s) from the user terminal); and

the user terminal includes the service provider identification in a distribution request of the desired program content to be sent to the program content managing/providing system (see Fig. 12, 102 for disclosing the user terminal screen including the guide/service provider identification in a distribution request window selecting desired program content).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3-4 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al US 20040117831 in view of O'Callaghan et al US 5594492.

Referring to claim 3, Ellis et al discloses the program content analyzing/retrieving system comprises:

a program information database for storing program information (see Fig. 1a, 22) on a program content basis (see Paragraph 0089 for disclosing the extraction of the content to be stored on a basis/type such as title or description);

a reception part for receiving a broadcasted program content (see Paragraph 0087 for disclosing a communications path for reception of the broadcasted program content);

an analyzing means for analyzing the demultiplexed program content (It is well known to a person having ordinary skill in the art for a set-top box to possess a processor for the purpose of analyzing/processing demultiplexed program content);

a program information extracting/generating part for extracting/generating program information on the program content based on an analysis result of the analyzing means, and for storing the program information in the program information database on a program content basis (see Paragraph 101 and Fig. 7 for disclosing a set-top box having integrated into its operating system a program guide application that

extracts/generates program information on the program content based on the result of the processor's analysis/processing);

and a retrieval server (see Fig. 1a, 22), for reading from the program information database, program information on a program content which meets a search condition, in response to a search request of program information on a desired program content from the user terminal, and for providing the program information for the user terminal (see Paragraph 101 for disclosing the client-server relationship between the user terminal and the television distribution facility server and see Paragraph 0135, 0136, and Fig. 12 for disclosing requested program information relating to program content being provided as a result of user search condition(s) from the user terminal).

Ellis et al fails to disclose a demultiplexing part for demultiplexing the received program content.

O'Callaghan et al discloses a demultiplexing part for demultiplexing the received program content (see Fig. 6, 620 and Col. 7 36-55 for disclosing a transport stream demultiplexer for demultiplexing the received program content).

At the time of the invention was made, it would have been obvious to a person having ordinary skill in the art to use the interactive television program guide features of Ellis with the hardware of O'Callaghan in order to take advantage of the hardware's ability to receive the wide accepted standard for distribution of video programming, MPEG-2.

Referring to claim 4, O'Callaghan et al discloses the analyzing means comprises:



a video analyzing part for analyzing a video coded bit string obtained through demultiplexing of the demultiplexing part (see Fig. 6, 630 and Col. 7, Lines 36-55 for disclosing a video decoder for analyzing the video stream that has been demultiplexed);

an audio analyzing part for analyzing an audio coded bit string obtained through demultiplexing of the demultiplexing part (see Fig. 6, 640 and Col. 7, Lines 36-55 for disclosing an audio decoder for analyzing the audio stream that has been demultiplexed);

a caption analyzing part for analyzing caption data obtained through demultiplexing of the demultiplexing part (see Fig. 6, 652, Col. 2, Lines 51-63, and Col. 7, Lines 36-55 for disclosing closed captioning being included in the data channel/stream of the MPEG transport stream and the graphics overlay controller for analyzing the data stream that has been demultiplexed); and

a data analyzing part for analyzing other data obtained through demultiplexing of the demultiplexing part (see Fig. 6, 652 and Col. 7, Lines 36-55 for disclosing a graphics overlay controller for analyzing the data stream that has been demultiplexed).

Referring to claim 8, Ellis et al discloses the program content analyzing system comprises:

a reception part for receiving a broadcasted program content (see Paragraph 0087 for disclosing a communications path for reception of the broadcasted program content);

an analyzing means for analyzing the demultiplexed program content (See US 5,822,123, Fig. 1, 16 for disclosing a microcontroller/processor for analyzing program content);

a program information extracting/generating part for extracting/generating program information on the program content based on an analysis result of the analyzing means (see Paragraph 101 and Fig. 7 for disclosing a set-top box having integrated into its operating system a program guide application that extracts/generates program information on the program content based on the result of the processor's analysis/processing); and

an analyzed-data transmission part for transmitting the extracted/generated program information to the network (see Paragraph 100 for disclosing the set-top box transmitting niche hub data/generated program information to the network).

Ellis et al fails to disclose a demultiplexing part for demultiplexing the received program content.

O'Callaghan et al discloses a demultiplexing part for demultiplexing the received program content (see Fig. 6, 620 and Col. 7 36-55 for disclosing a transport stream demultiplexer for demultiplexing the received program content).

At the time of the invention was made, it would have been obvious to a person having ordinary skill in the art to use the interactive television program guide features of Ellis with the hardware of O'Callaghan in order to take advantage of the hardware's ability to receive the wide accepted standard for distribution of video programming, MPEG-2.

Referring to claim 9, O'Callaghan et al discloses the analyzing means comprises:

- a video analyzing part for analyzing a video coded bit string obtained through demultiplexing of the demultiplexing part (see Fig. 6, 630 and Col. 7, Lines 36-55 for disclosing a video decoder for analyzing the video stream that has been demultiplexed);
- an audio analyzing part for analyzing an audio coded bit string obtained through demultiplexing of the demultiplexing part (see Fig. 6, 640 and Col. 7, Lines 36-55 for disclosing an audio decoder for analyzing the audio stream that has been demultiplexed);
- a caption analyzing part for analyzing caption data obtained through demultiplexing of the demultiplexing part (see Fig. 6, 652, Col. 2, Lines 51-63, and Col. 7, Lines 36-55 for disclosing closed captioning being included in the data channel/stream of the MPEG transport stream and the graphics overlay controller for analyzing the data stream that has been demultiplexed); and
- a data analyzing part for analyzing other data obtained through demultiplexing of the demultiplexing part (see Fig. 6, 652 and Col. 7, Lines 36-55 for disclosing a graphics overlay controller for analyzing the data stream that has been demultiplexed).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NICHOLAS CORBO whose telephone number is

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(571)270-5675. The examiner can normally be reached on Monday through Thursday 730am-500pm, Friday 730am-400pm, Alternate Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hai Tran can be reached on (571)272-7305. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

N.T.C.  
Examiner, Art Unit 4126

09/03/2008

/Hai Tran/  
Supervisory Patent Examiner, Art Unit 4126